

## **MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** The Alameda (@ Sunol) Rezoning

**PROJECT FILE NUMBER:** PDC07-020, PD07-030, PT07-066 and Subsequent Permits

**REVISED PROJECT DESCRIPTION:** Planned Development Rezoning from LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow 3,200 square feet of commercial uses and up to nine residential units in a mixed-use development and interim commercial uses in the existing 10,400 square foot building on a 0.30 gross acre site

(Note: The proposed change to the project, underlined above, is minor and will not result in new or more severe impacts, therefore recirculation of the Mitigated Negative Declaration is not necessary. No new mitigation nor modification of the mitigation measures included in the Mitigated Negative Declaration is required.)

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southwest corner of the intersection of The Alameda and Sunol Street, 261-32-058

**COUNCIL DISTRICT:** 6

**APPLICANT CONTACT INFORMATION:**

Moon Pham, C/O CFC Capital Group, 500 E. Calaveras Blvd. #329, Milpitas, CA 95035

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## **FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. **BIOLOGICAL RESOURCES – MITIGATION MEASURE for Bats:** Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to the building demolition or construction activities. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, should be in place at least one summer season prior to the exclusion. Bat roosts should be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG. A biologist report outlining the results of pre-construction surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading, building, or tree removal permit.
- V. **CULTURAL RESOURCES – MITIGATION MEASURES for Archaeological Resources:** There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.
  - a. If no resources are discovered, the archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
  - b. If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
  - c. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and

mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:

- i. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- ii. A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.

**VI. GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**VII. HAZARDS AND HAZARDOUS MATERIALS – MITIGATION MEASURES:**

- a. Prior to the issuance of Grading Permit, a report shall be submitted to the to the satisfaction of the City's Municipal Compliance Officer and the Director of Planning, Building and Code Enforcement indicating the results of the following: After demolition of the building, a qualified environmental consultant shall be retained to evaluate the underlying soil for potential contamination. The consultant should look for evidence of discolored soil, sumps, drains or other structures where historic hazardous materials release might have occurred due to the sheet metal and automotive business. Additional soil samples shall be collected from the project site and analyzed for solvents and metals as well as petroleum contamination.

**VIII. HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**IX. LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**X. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XI. NOISE MITIGATION MEASURES:** –

- a. The project shall incorporate building sound insulation to meet the requirements of the California Building Code to reduce interior noise levels to 45 dBA or lower, using standard construction techniques. Prior to issuance of occupancy permits, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently. All units shall have forced air ventilation systems to allow the windows to remain closed so that an interior noise level of 45 dBA can be achieved.
- b. The developer shall implement a Construction Management Plan approved by the Director of Planning, Building and Code Enforcement to minimize impacts on the surrounding sensitive land uses to the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:
  - i. Early and frequent notification and communication with the neighborhood of the construction activities.
  - ii. Prohibit unnecessary idling of internal combustion engines.
- c. Standard mitigation measure for mechanical ventilation: All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 DNL. Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels can be sufficiently attenuated to 45 DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.
- d. As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
- e. Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.

**XII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XIII. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XIV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XV. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a

substantial adverse effect on human beings, and will result in a less than significant impact with the proposed mitigation.

## PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 7, 2008**, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: 9/14/08  
Deputy

SRB Walde

Adopted on: \_\_\_\_\_  
Deputy

MND/JAC 8/26/05